MONTANA LEGISLATIVE HISTORY

Chapter ______ 19 75

Bill H 115 S ______ Original bill & history ✓ C

H. Committee on Taxation

Hearing Date(s) 1-30 ✓ C

3-4 ✓ C

3-5 ✓ C

______ ______ C

Date Out ______ ______ C

S. Committee on ______

Hearing Date(s) ______ ______ C

______ ______ C

______ ______ C

______ ______ C

BEST COPY AVAILABLE

Did this bill originate in an interim committee? ____ Yes ____ No

Committee ______________ Report ______________

House BILL NO. 115

INTRODUCED BY Halvorson Dassinger Day

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION OF COAL PRODUCTION; PROVIDING FOR A SEVERANCE TAX ON COAL PRODUCED AT TWENTY PERCENT (20%) OF VALUE BEFORE TAXES; DELETING COAL FROM THE PROVISIONS TAXING THE NET PROCEEDS OF MINES; PROVIDING FOR TAXATION OF THE GROSS PROCEEDS FROM COAL AS AN ELEMENT IN THE PROPERTY TAX SYSTEM; AMENDING SECTIONS 84-301, 84-302, AND 84-5402, R.C.M. 1947; AND REPEALING SECTIONS 84-1301 THROUGH 84-1309, 84-1309.1, 84-1310, AND 84-1311, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Legislative findings and declarations of purpose. (1) The legislature finds that while coal is extracted from the earth like metal minerals, there are differences between coal and metal minerals such that they should be classified in different categories for taxation purposes. The legislature finds that while coal can be utilized like petroleum products, there are differences between coal and petroleum such that they should be classified in different categories for taxation purposes. The legislature further finds that:

(a) coal is the only mineral which can supply energy

while being easily found in abundance in Montana;

(b) coal is the only mineral which is so often marketed through sales contracts of many years' duration;

(c) coal, unlike most minerals, varies widely in composition and consequent value when marketed;

(d) coal in Montana is subject to regional and national demands for development which could affect the economy and environment of a larger portion of the state than any other mineral development has done;

(e) coal in Montana, when recoverable by strip mining, is in sufficient demand that between one-fourth (1/4) and one-third (1/3) of the price it commands at the mine may go to the economic rents of royalties and production taxes;

(f) coal produced in underground mines has higher production costs and underground producers are able to pay lesser amounts of royalty and production tax than strip mine producers can pay;

(g) coal production in Montana has been subject to an uncoordinated array of taxes which overlap one another and yield revenue in an inconsistent and unpredictable manner.

(2) The legislature declares that the purposes of this chapter are:

(a) to allow the severance taxes on coal production to remain a constant percentage of the price of coal;

(b) to stabilize the flow of tax revenue from coal

mines to local governments through the property taxation system;

(c) to simplify the structure of coal taxation in Montana, reducing tax overlap and improving the predictability of tax projections; and

(d) to accomplish the foregoing purposes by establishing categories of taxation which recognize the unique character of coal as well as the variations found within the coal industry.

Section 2. Definitions. As used in this chapter -- (1) "Contract sales price" means either (a) the price of coal extracted and prepared for shipment f.o.b. mine, excluding that amount charged by the seller to pay taxes paid on production, or (b) a price imputed by the department under section [6 of this act].

(2) "Energy conversion process" includes any process by which coal in the solid state is transformed into slurry, gas, electric energy, or any other form of energy.

(3) "Produced" means severed from the earth.

(4) "Strip mining" or "surface mining" is defined in section 50-1036.

(5) "Underground mining" means a coal mining method utilizing shafts and tunnels, and not regulated under section 50-1039.

(6) "Ton" means two thousand (2,000) pounds.

(7) "Taxes paid on production" include any tax paid to the federal, state, or local governments upon the quantity of coal produced as a function of either the volume or the value of production, and do not include any tax upon the value of mining equipment, machinery, or buildings and lands, any tax upon a person's net income derived in whole or in part from the sale of coal, or any license fee.

(8) "Department" means the department of revenue.

Section 3. Severance tax -- rates imposed -- exemptions. A severance tax is imposed on each ton of coal produced in the state, in accordance with the following schedule:

Heating quality (Btu per pound of coal):	Surface Mining	Underground Mining
Under 7,000	12 cents or 20% of value	5 cents or 3% of value
7,000-8,000	22 cents or 20% of value	8 cents or 4% of value
8,000-9,000	34 cents or 20% of value	10 cents or 4% of value
Over 9,000	40 cents or 20% of value	12 cents or 4% of value

The formula which yields the greater amount of tax in a particular case shall be used at each point on this

schedule. "Value" means the contract sales price. A person who produces less than one thousand two hundred fifty (1,250) tons of coal in a quarter-year is not liable for any severance tax on that production. A person who produces less than twelve thousand five hundred (12,500) tons in a quarter-year is liable for one-eighth (1/8) of the severance tax on that production.

Section 4. Quarterly statement and payment of tax. Each coal mine operator shall compute the severance tax due on each quarter-year's worth of production on forms prescribed by the department. The statement shall indicate the tonnage produced, the average Btu value of the production, the contract sales price received for the production, and such other information as the department may require. The completed form in duplicate, with the tax payment, shall be delivered to the department not later than thirty (30) days following the close of the quarter. The form shall be verified by an officer of the coal mine operator. A person operating more than one coal mine in this state may include all of his mines in one statement.

Section 5. Annual testing of samples. The Montana state bureau of mines and geology shall test coal production subject to this chapter and may make rules governing the collection of test data. A person subject to this chapter shall submit to the bureau on or before August 1 each year a

LC 0809

sample of mine run "as is" coal from each mine producing that year. Additional samples shall be submitted at the request of the bureau. The bureau shall compute the Btu per pound of each sample received and forward this information to the department prior to September 1 each year.

Section 6. When value of coal may be imputed; procedure. In a case where

(a) the operator of a coal mine is using the produced coal in an energy conversion process, or

(b) a person sells coal under a contract which is not an arm's-length agreement, or

(c) a person neglects or refuses to file a statement and tax return under this chapter, the department may impute a value to the coal which approximates market value f.o.b. mine. When imputing value, the department may apply the factors used by the federal government under 26 U.S.C. section 613, or that provision as it may be labelled or amended, in determining gross income from mining, or the department may apply any other or additional criteria it considers appropriate. Each subject taxpayer shall, upon request by the department, furnish a copy of its federal income tax return, with any amendments, filed for the year in which the value of coal is being imputed and copies of the contracts under which it is selling coal at the time. When the department's estimate of market value is contested

HB115

in any proceeding, the burden of proof is on the contesting party.

Section 7. Disposition of revenue. Severance taxes collected under this chapter are allocated as follows:

(1) To the county from which coal was mined one-tenth (1/10) of the tax paid by each mine in the county; for such purposes as the governing body of the county may determine;

(2) One-tenth (1/10) of the tax paid by each mine, to that city or town nearest the mine, as determined by the driving distance on improved all-weather roads, which was incorporated before January 1, 1965; and

(3) The balance to the general fund of the state.

Section 8. Reporting gross proceeds from coal. Each person engaged in mining coal must, on or before March 31 each year file with the department a statement of the gross yield from each coal mine owned or worked by such person in the preceding calendar year, and the value thereof. The statement shall be in the form prescribed by the department of revenue, which may be coordinated with the form used under section 5 of this act, and must be verified by an officer of the firm. The statement shall include:

(1) The name and address of the owner or lessee or operator of the mine.

(2) The location of the mine.

(3) The tons of ore extracted, treated, and sold from

the mine during the taxable period.

(4) The gross yield or value in dollars and cents derived from the contract sales price.

Section 9. Transmission of gross proceeds from coal to county assessor. On or before July 1 each year the department shall transmit to the county assessor of each county in which coal mines are situated, the valuation of the gross proceeds of such mines for the purpose of taxation, as the same have been determined by the department. The county assessor shall immediately enter the same upon a suitable assessment roll, the form of which shall be prescribed by the department.

Section 10. Taxation of gross proceeds from coal. The county assessor shall prepare from the reported gross proceeds from coal a tax roll, which he shall transmit to the county treasurer on or before September 15 each year. The county treasurer shall proceed to give full notice thereof to each coal producer and to collect the taxes due within sixty (60) days after mailing.

Section 11. Lien of tax -- enforcement of payment. The tax on gross proceeds from coal shall be levied as taxes on other forms of property, and this tax and the severance tax on coal production are each a lien upon the coal mine and a prior lien upon all personal property and improvements used to produce the coal. These taxes may be collected by

the seizure and sale of the personal property on which the tax is a lien, as provided under sections 84-4202 through 84-4211, or by suit under sections 84-4301 through 84-4302.

Section 12. Penalties for neglect or false statement. A person who fails, neglects, or refuses to file any statement required under this chapter, or who makes a false statement commits a misdemeanor. A person convicted under this section shall be fined not to exceed one thousand dollars ($1,000) or be imprisoned in the county jail for any term not to exceed six (6) months, or both.

Section 13. Section 84-301, R.C.M. 1947, is amended to read as follows:

"84-301. Classification of property for taxation. For the purpose of taxation the taxable property in the state shall be classified as follows:

Class One. The annual net proceeds of all mines and mining claims, except coal mines, after deducting only the expenses specified and allowed by section 84-5403; also where the right to enter upon land, to explore or prospect, or dig for oil, gas, coal or mineral is reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise or succession by any person or corporation, the surface title to which has passed to or remains in another, the state department of revenue shall determine the value of the right to enter upon said tract of

land for the purpose of digging, exploring, or prospecting for gas, oil, coal or minerals, and the same shall be placed in this classification for the purpose of taxation.

Class Two. All agricultural and other tools, implements and machinery, gas and other engines and boilers, threshing machines and outfits used therewith, automobiles, motor trucks and other power-driven cars, vehicles of all kinds except mobile homes, boats and all watercraft, harness, saddlery and robes and except as provided in Class Five (b) of this section, all poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by all persons, firms, corporations, and other organizations which are engaged in the business of furnishing telephone communications, exclusively to rural areas, or to rural areas and cities and towns provided that any such city or town has a population of eight hundred (800) persons or less; and provided further, that the average circuit miles for each station on the system is more than one and one-quarter (1 1/4) miles.

Class Three. Livestock, poultry and unprocessed products of both; stocks of merchandise of all sorts, together with furniture and fixtures used therewith, except mobile homes; the annual gross proceeds of underground coal mines; and all office or hotel furniture and fixtures.

Class Four. (a) All land, town and city lots, with

HB 115

improvements, and all trailers affixed to land owned, leased, or under contract or purchase by the trailer owner, manufacturing and mining machinery, fixtures and supplies, except as otherwise provided by the constitution of Montana, and except as such property may be included in Class Five, Class Seven or Class Eight.

(b) Mobile homes without regard to the ownership of the land upon which they are situated, except those held by a distributor or dealer of mobile homes as part of his stock in trade, and except as such property may be included in Class Eight.

Class Five. (a) All moneys and credits, secured or unsecured, including all state, county, school district and other municipal bonds, warrants and securities, without any deduction or offset; provided, however, that the terms "moneys and credits" as herein used shall not embrace the moneyed capital employed in the banking business by any banking corporation or individual in this state.

(b) All poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by co-operative rural electrical and co-operative rural telephone associations organized under the laws of Montana except those within the incorporated limits of a city or town in which less than ninety-five per cent (95%) of the electric consumers and/or telephone users

are served by a co-operative organization, and as to the property enumerated in this subsection (b) within incorporated limits of a city or town in which less than ninety-five per cent (95%) of the electric consumers or users will be served by a co-operative organization, such property shall be put in Class Two.

(c) All unprocessed agricultural products either on the farm or in storage, irrespective of whether said products are owned by the elevator, warehouse or flour mill owner or company storing the same, or any other person whomsoever, except all perishable fruits and vegetables in farm storage and owned by the producer, and excepting livestock and poultry and the unprocessed products of both.

(d) The dwelling house, and the lot on which it is erected, owned and occupied by any resident of the state, who has been honorably discharged from active service in any branch of the armed forces, who is rated one hundred per cent (100%) disabled due to a service-connected disability by the United States veterans administration or its successors.

In the event of the veteran's death, the dwelling house, and the lot on which it is erected, so long as the widow remains unmarried and the owner and occupant of the property, shall remain within this classification.

Class Six. Property formerly included in this class is

now classified by section 84-308, R.C.M. 1947.

Class Seven. (a) All new industrial property. New industrial property shall mean any new industrial plant, including land, buildings, machinery and fixtures which, in the determination of the state department of revenue, is used by a new industry during the first three (3) years of operation not having been assessed prior to July 1, 1961, within the state of Montana. New industry shall mean any person, corporation, firm, partnership, association, or other group which establishes a new plant or plants in this state for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry or industries. Provided, however, that new industrial property shall be limited to industries that manufacture, mill, mine, produce, process or fabricate materials, or do similar work in which capital and labor are employed and in which materials unserviceable in their natural state are extracted, processed or made fit for use or are substantially altered or treated so as to create commercial products or materials; and in no event shall the term new industrial property be included to mean property used by retail or wholesale merchants, commercial services of any type, agriculture, trades or professions. And provided further, that new industrial property shall not be included to mean property which is used or employed in any

industrial plant which has been in operation in this state for three (3) years or longer. Any person, corporation, firm, partnership, association or other group seeking to qualify its property for inclusion in this class shall make application to the state department of revenue in such manner and form as may be required by said department.

Class Eight. Any improvement on real property, trailers affixed to land or mobile home belonging to any person who qualifies under any one or more of the hereinafter set forth categories, valued at not more than seventeen thousand five hundred dollars ($17,500), which is owned or under a contract for deed, and which is actually occupied by:

(1) a widow sixty-two (62) years of age or older, whether with or without minor dependent children, who qualifies under the income limitations of (4), or

(2) a widower sixty-five (65) years of age or older, whether with or without minor dependent children, who qualifies under the income limitations of (4), or

(3) a widow with minor or dependent children regardless of age, who qualifies under the income limitations of (4), or

(4) a recipient of retirement benefits whose income from all sources is not more than four thousand dollars ($4,000) for a single person and five thousand two hundred

HB115

dollars ($5,200) for a married couple per annum. Provided, further, that one who applies for classification of property under this class must make an affidavit to the state department of revenue on a form as may be provided by the state department of revenue supplied without cost to the applicant, as to his income, if applicable, as to his retirement benefits, if applicable, or, as to his marital status, if applicable, and to the fact that he or she actually occupies such improvements with right of the county welfare board to investigate the applicant, on the completion of the form, as to answers given on the form. Provided, further, that the value of said property shall not increase during the life of the recipient of retirement benefits or widow or widower covered under this class. For purposes of the affidavit required for classification of property under this class, it shall be sufficient if the applicant signs a statement swearing to or affirming the correctness of the information supplied, whether or not the statement is signed before a person authorized to administer oaths, and mails the application and statement to the department of revenue. This signed statement shall be treated as a statement under oath or equivalent affirmation for purposes of section 94-7-203, R.C.M. 1947, relating to the criminal offense of false swearing.

Class Nine. The annual gross proceeds of coal mines

using the strip mining method.

Class ~~Nine~~-Ten. All property not included in the ~~eight (8)~~ nine (9) preceding classes."

Section 14. Section 84-302, R.C.M. 1947, is amended to read as follows:

"84-302. Basis for imposition of taxes. As a basis for the imposition of taxes upon the different classes of property specified in the preceding section, a percentage of the true and full value of the property of each class shall be taken as follows:

Class 1. One hundred per cent (100%) of its true and full value.

Class 2. Twenty per cent (20%) of its true and full value.

Class 3. Thirty-three and one-third per cent (33 1/3%) of its true and full value.

Class 4. Thirty per cent (30%) of its true and full value.

Class 5. Seven per cent (7%) of its true and full value.

Class 6. As specified in section 84-308, R.C.M. 1947.

Class 7. Seven per cent (7%) of its true and full value.

Class 8. Fifteen per cent (15%) of its true and full value.

Class 9. Forty per cent (40%) of its true and full value.

Class 10. Forty-five percent (45%) of its true and full value."

Section 15. Section 84-5402, R.C.M. 1947, is amended to read as follows:

"84-5402. Net proceeds tax--statement of yield, penalty, extension of time. Every person, partnership, corporation, or association, engaged in mining, extracting or producing from any quartz vein or lode, placer claim, dump or tailings, or other place or sources whatever, precious stones or gems, gold, silver, copper, ~~coal,~~ lead, petroleum, natural gas, or other valuable mineral, except coal, must on or before the thirty-first day of March of each year make out a statement of the gross yield of the above-named metals or minerals from each mine owned or worked by such person, corporation or association during the year preceding the first day of January of the year in which such statement is made, and the value thereof. Such statement shall be in the form prescribed by the state department of revenue, and must be verified by the oath of such person or the manager, superintendent, agent, president or vice-president of such corporation, association or partnership, and must be delivered to the state department of revenue on or before the thirty-first day of March. Such

statement shall show the following:

1. The name and address of the owner or lessee or operator of the mine, together with the names and addresses of any and all persons, corporations, or associations owning or claiming any royalty interest in the mineral product of such mine or the proceeds derived from the sale thereof, and the amount or amounts paid or yielded as royalty to each of such persons, corporations or associations during the period covered by the statement.

2. The description and location of the mine.

3. The number of tons of ore, barrels of petroleum, cubic feet of natural gas or other mineral products or deposits extracted, produced, and treated or sold from the mine during the period covered by the statement.

4. The amount and character of such ores, mineral products or deposits, and the yield of such ores, mineral products or deposits from such mine in constituents of commercial value; that is to say, the number of ounces of gold or silver, pounds of copper or lead, ~~tons--of--coal,~~ barrels of petroleum or other crude or mineral oil, cubic feet of natural gas or other commercially valuable constituents of said ores or mineral products or deposits measured by standard units of measurement, yielded to such person, corporation or association so engaged in mining, and to said royalty holders and each of them, if any, during the

HB115

period covered by the statement.

5. The gross yield or value in dollars and cents.

6. Actual cost of extracting same from mine.

7. Actual cost of transporting to place of reduction or sale.

8. Actual cost of reduction or sale.

9. Actual cost of marketing the product and conversion of same into money.

10. Cost of construction, repairs and betterments of mines, and cost of repairs and replacements of reduction works.

11. The assessed valuation of reduction works for the calendar year for which such return is made.

12. Actual cost of fire insurance and workmen's compensation insurance.

If any person shall fail, neglect or refuse to file the statement required by this section within the time required, or within any extended period of time allowed, the state department of revenue when transmitting the net proceeds valuations to the counties shall inform the county assessor of such failure, neglect or refusal and the county assessor in addition to the net proceeds tax, if any, shall assess a penalty of 2/3 of 1% of such tax for each calendar month or fraction thereof that the required statement is not filed, deducting therefrom any moneys collected by the state

department of revenue required by this section. The state department of revenue shall assess a penalty of $25 for each calendar month or fraction thereof, not exceeding four months, that the required statement is not filed, to be collected by the state department of revenue and deposited to the credit of the general fund of the state of Montana.

The state department of revenue shall, upon a showing of reasonable cause, grant an extension of time for filing the statement required by this section. This penalty shall be in addition to penalties provided in section 84-5410."

Section 16. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 17. Repealer. Sections 84-1301 through 84-1309, 84-1309.1, 84-1310, and 84-1311, R.C.M. 1947, are repealed.

-End-

STATE OF MONTANA

REQUEST NO. 58-75

FISCAL NOTE

Form BD-15

In compliance with a written request received January 20, 19 75, there is hereby submitted a Fiscal Note for House Bill 115 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 115 contains two major provisions: (1) To replace the strip coal mines license tax as a fixed rate per ton with a severance tax of 20% imposed on the before-tax-value of coal produced. (2) To delete coal from the provisions taxing the net proceeds of mines (taxable value is 100% of net proceeds) and to establish the annual gross proceeds of strip coal mines as Class 9 for property tax purposes (taxable value is 45% of gross proceeds).

ASSUMPTIONS:

1. Coal production will be 24.725 million tons in FY 76 and 31.435 million tons in FY 77; coal production will not be affected by the increase in coal taxes proposed by this bill.

2. The contract sales price of coal will average $4.25 per ton in FY 76 and $4.71 per ton in FY 77.

3. The value of coal is defined to be the contract sales price, which in turn is defined to be the price of coal extracted and prepared for shipment f.o.b. mine, excluding that amount charged by the seller to pay taxes paid on production. "Taxes paid on production" is defined as any tax paid to governments upon the quantity of coal produced as a function of either the volume or the value of production. Since the contract sales price in assumption 2 includes resource indemnity taxes, strip mines license taxes and net proceeds taxes under existing law, these amounts must be excluded to compute the tax base for the proposed severance tax. Thus, the value of coal produced as defined in House Bill 115 will be $91,978,015 in FY 76 and $130,909,652 in FY 77.

4. The definition of gross proceeds under House Bill 115 is derived from the definition of contract sales price (excluding taxes). With one exception (Peabody Coal) net proceeds of coal companies are approximately 45% of gross proceeds as defined in this bill. (See technical note)

5. The provision that persons producing less than 12,500 tons in a quarter-year are liable for 1/8 of the severance tax will have no significant impact.

6. Severance tax collections will be distributed 10% to counties, 10% to the city nearest the mine and 80% to the General Fund.

FISCAL IMPACT OF SEVERANCE TAX:	FY 76			FY 77		
	State	Counties	Cities	State	Counties	Cities
Strip mines license tax collections under current law	$ 8.17 million	$ .74 million	0	$10.33 million	$ .94 mil.	0
Strip mines severance tax collections under proposed law.	14.72	1.84	1.84	20.94	2.62	2.62
Increase in collections	$ 6.55 million	1.10 million	1.84 mil.	$10.61 million	$1.68 mil.	$2.62 mil.

CONTINUED

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: ______________

STATE OF MONTANA

REQUEST NO. 58-75

FISCAL NOTE

Form BD-15

In compliance with a written request received January 20, 19 75, there is hereby submitted a Fiscal Note for House Bill 115 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

FISCAL IMPACT OF GROSS PROCEEDS TAX:

Replacing net proceeds taxable at 100% by gross proceeds (excluding that amount charged by the seller to pay production taxes) taxable at 45% will not significantly affect the taxable value of any district or county with the exception of School District No. 19 in Rosebud County wherein Peabody Coal is operating. Taxable net proceeds and royalties of Peabody Coal constitute approximately 29.2% of gross proceeds as defined in this bill. Thus, under House Bill 115, taxable value of Peabody Coal would increase approximately 54%. Since the taxable value of Peabody Coal is approximately 10.7% of the taxable value of School District No. 19, the School District will experience an increase in taxable value of 5.8%. Rosebud County would experience an increase in the tax base of 2.1%.

TECHNICAL NOTE:

A letter from the Legislative Council states that the percentages on page 17, lines 1 and 3 are in error and should read 45% on line1 and 40% on line 3. Fiscal impact was prepared accordingly.

NOTE:

House Bill 115 is similar to Senate Bill 13. The major difference between the provisions of House Bill 115 and Senate Bill 13 is in the definition of "value". Senate Bill 13 defines value to be the contract sales price with no adjustment for taxes.

Michael G. Billings

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: January 24, 1975

1975
house

3.

TAXATION COMMITTEE

44th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 94	Provide 15% standard deduction on net income; increase single standard deduction to $1000 & joint to $2000; provide alternate deduction for low-income persons & persons over 65.	1/16	Vincent Teague O'Connell	1/29	HEARD DO NOT PASS	3/6/75
HB 106	Allow 2 month extension for filing income tax returns; clarify existing provisions; provide effective date.	1/16	Fabrega, Jack Moore, Gilligan, Tropila +	1/22	DO PASS	1/22/75
HB 107	Provide all taxable property assessed at 40% of full cash value and stating exceptions.	1/16	Fabrega, Jack Moore Fagg	1/22	Deferred for further information. Subcommittee appointed 2/18 - DO PASS AS AMENDED.	2/18/75
HB 113	Providing prepayment of taxes on certain major new industrial facilities.	1/16	Dassinger Yardley Manuel Jacobsen +	1/24	Considered. 1/24 AS SO AMENDED DO PASS	2/3/75
HB 114	Exclude from class 7 property tax classification any new industrial plant which employs a certain no. of construction workers during construction. Amend. 84-301.	1/16	Dassinger, Lien Jacobsen South Bengtson +	1/24	Subcommittee appointed 1/24. AS SO AMENDED DO PASS	2/3/75
HB 115	Revising taxation of coal production; providing severance tax at 20% before taxes; deleting coal from taxing net proceeds of mines; taxing gross proceeds as an element in property tax system	1/17	Halvorson Dassinger Day	1/30	To continue hearing. AS SO AMENDED DO PASS	3/6/75

TAXATION COMMITTEE

January 30, 1975

Rep. Dan Yardley, Chairman, called the committee to order at 8:00 a.m., in Room #108, Capitol Building, Helena, Montana. Quorum was present. Roll call was taken. All members appeared. House Bill 115 was scheduled to be heard.

Rep. Ora J. Halvorson, District 16, Kalispell, chief sponsor of HB 115, explained the bill as it is written and the feeling behind the bill from the interim committee study, copy of which is attached. There are benefits and problems that require much study and thought.

HOUSE BILL 115

Rep. E. N. Dassinger, District 34, Forsyth, Rosebud County, co-sponsor, advised the distribution of taxes in Section 7 is to drop the three cents per ton which the county receives and use a stationary tax which would be 10% of the severance tax and allow the county benefits to increase as the coal price goes up; and to allow 1/10 of severance tax to the nearest incorporated municipality. Changes net proceeds tax to gross proceeds tax at a lesser rate which would allow for approximately an equal amount of revenue. Gross proceeds basis will make it more fair between companies and it will also assure even income for the county.

Rep. Thomas Conroy, District 58, Hardin, supports HB 115. This is an all-inclusive bill. The Crow tribe is also taxing coal on the reservation. The fiscal note attached to the senate version of such a tax bill shows no taxation on the Crow coal.

Mr. Ray Stoner, Montana Association of Counties, Outlook, Montana, supports the bill. See his witness sheet attached.

Mr. John Morland, County Commissioner from Rosebud County, left figures regarding additional expenses caused by the coal industry. See his statement attached.

Mr. Allen Rolfsten, City of Forsyth employee, explained how water and sewer requirements had doubled since 1972. He supports HB 115.

Mr. Gene H. Kurtz, Forsyth Public School Superintendent, left his statement regarding impact of coal industry on school systems.

Mr. Kit Muller, representing Northern Plains Resource Council left testimony regarding support of HB 115.

Mr. Robert Yellowtail, Jr., representing the Crow Indian Tribe of Southern Montana, advised that the tribe has a lot of coal and they are going to sell it as they see fit. They are quite concerned about impact on their schools and their society.

Mr. J. F. Ratchye, Decker Coal Co., Sheridan, Wyoming, opposes HB 115 as he thinks Montana is getting enough tax revenue out of coal already, and the output will be greatly increased and so will the revenue by 1980. Wyoming is not going to increase their coal taxes, and so will enjoy a larger revenue income because of greater sales. He says to leave Montana coal taxes alone - you're getting plenty, but you are going to get more.

Mr. Pat Hooks, of the Montana Coal Council opposes HB 115. He thinks the escalation clauses are unique. He objects to net proceeds tax as it was not geared so that the money flowed into the county until after it was needed. Montana has the highest severance taxes of any state in the coal producing industry. Any sales tax cannot be added to coal going out of state. A great majority of large coal contracts might have gone to other states. This bill strives for status quo as far as net or gross proceeds go, based on the department of revenue figures. No attempt is made at the 20% to get status quo. The bill also abandons the BTU concept which has been used previously. The cheapest and purest coal is in Montana. Royalties are being renegotiated at a set price per ton. Any mine operating reports net, excluding royalties paid. In turn the county is entitled to tax recipient of that royalty. He urges reading of the interim report. In a poll taken in October of 1974, people favor coal development so long as there is regulation and reasonable care taken.

Mr. Bob Corette, Western Energy & Montana Power, Butte, agrees with Mr. Pat Hooks. HB 115 puts on taxes which he believes are too high. He does not believe in a gross proceeds tax. Mr. Corette left a chart showing estimated contract sales for several companies. The problem is that if you get this tax too high, companies will take just the minimum contract amounts and the companies, and then the state, will suffer from lack of coal sales. Status quo is about 12% instead of 20%. Five cents to thirty-four cents per ton raise in the last year would be doubled by this bill.

Mr. Gene Phillips, Pacific Power & Light Co., Kalispell advised that Decker does not pay a corporation license tax because it is a partnership. He prefers this house bill to the senate bills. They are producing coal under two long term contracts which pass the year 2000, which provide for costs to pass through to the buyer. He believes royalties should be allowed as a reduction of income tax. Cost of producing coal has gone from $4.55 in 1974, to $5.33 per ton for 1975, and is estimated to be $6.25 for 1976, which prices will bring Montana in the highest revenue. Over the U.S. 50% of all electricity is generated from coal, which comes from surface mines mostly. He wants legislators to look at the whole picture, and give due consideration to what level the tax is set.

Mr. Allen Taylor, department of revenue does not oppose this bill. He left an explanatory memo.

Mr. Ed McCaffree, Rosebud County Commissioner, Melstone, Montana, wishes the bill amended.

Rep. Halvorson stated this bill adds a modest sum to the general revenue fund. She feels Montana should harvest something from her non-renewable natural resource, coal. Disbursements of funds received from this source are made directly in order to put the money in the hands of those where the impact is in time to help when it is needed.

An amendment will be necessary to correct faulty drafting of the bill:

1. Amend page 17, Section 14, line 1.
   Strike: "Forty per cent (40%)"
   Insert: "Forty-five per cent (45%)"

2. Amend page 17, Section 14, line 3.
   Strike: "Forty-five per cent (45%)"
   Insert: "Forty per cent (40%)"

Meeting adjourned at 9:15 a.m.

Dan Yardley

REP. DAN YARDLEY, Chairman

jl

REPRESENTATIVE ORA J. HALVORSON
JANUARY 30, 1975

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

MY NAME IS ORA HALVORSON, REPRESENTATIVE FROM DISTRICT 16. ALTHOUGH COAL MINING IN THE KALISPELL AREA HAS NOT YET BECOME A PROBLEM, I HAVE SPENT CONSIDERABLE TIME ON THE PROBLEMS OF COAL TAXATION. I CHAIRED A SUB-COMMITTEE OF THIS COMMITTEE WHICH WORKED ON A PERCENTAGE OF VALUE COAL TAX BILL DURING THE LAST LEGISLATURE. WHEN OUR BILL FAILED IN THE SENATE, I WAS APPOINTED TO THE INTERIM STUDY COMMITTEE ON FOSSIL FUELS TAXATION WHICH PRODUCED THE LEGISLATIVE COUNCIL STUDY PUBLISHED LAST MONTH.

HOUSE BILL NO. 115 IS BASED IN LARGE PART UPON THE STUDIES AND RECOMMENDATIONS OF THE INTERIM STUDY. IT DIFFERS FROM THE OTHER COAL TAX BILL COMING OUT OF THE STUDY, WHICH WAS INTRODUCED IN THE SENATE, IN THREE MAIN AREAS: It ~~MY BILL~~ DOES NOT TAX TAXES -- THE SO-CALLED TAX PYRAMIDING PROBLEM IS NOT HERE. 2, 71 MY ~~BILL~~ DOES NOT INVOLVE AS LARGE A JUMP IN TAXES ON THE INDUSTRY. AND ~~MY~~ Bill this House. Bill ~~BILL~~ WRITES AID TO THE IMPACTED LOCAL GOVERNMENTS RIGHT INTO THE TAX COLLECTION PROCESS.

THE EFFECTIVE PERCENTAGE OF THE SEVERANCE TAX IN THIS BILL IS 20% OF THE VALUE BEFORE TAXES. THAT COMPARES TO AN EFFECTIVE PERCENTAGE FOR THE PRESENT LICENSE TAX OF 14.3% OF THE BEFORE-TAX VALUE. TO TRANSLATE THESE INTO AFTER-TAX VALUES, THE SEVERANCE TAX IN THIS BILL WOULD BE 17.6% OF AFTER-TAX VALUE, COMPARED TO 12.6% UNDER EXISTING LAW AND 25% UNDER THE SENATE BILL.

[illegible]

THAT THE LEVELS PROPOSED IN MY BILL ARE TOO HIGH BECAUSE EVEN UNDER OUR EXISTING LAW, OUR COAL TAXES ARE HIGHER THAN THOSE IN OTHER WESTERN STATES. I WANT TO MAKE TWO POINTS ABOUT DRAWING COMPARISONS WITH OTHER COAL STATES:

1. IN OUR INTERIM STUDY, WE EXCLUDED CONSIDERATION OF SALES TAXES AND INCOME TAXES. A WE EXCLUDED SALES TAXES BECAUSE WE DON'T HAVE ONE. BUT NORTH DAKOTA DOES, A 4% SALES TAX, AND IT IS APPLIED TO A much LOT OF COAL SALES THERE. WYOMING HAS A 3% SALES TAX, AND WE HAD NO INFORMATION AS TO HOW MANY WYOMING COAL MINES PAY THIS TAX. LIKEWISE FOR THE 4% NEW MEXICO SALES TAX AND SO FORTH. INCOME TAXES WERE DIFFICULT TO COMPARE FOR A NUMBER OF REASONS. CONSIDER THE DECKER COMPANY, FOR EXAMPLE. IT IS A PARTNERSHIP BETWEEN A CORPORATION HEADQUARTERED IN NEBRASKA AND A UTILITY BASED IN OREGON. PARTNERSHIPS DON'T PAY OUR CORPORATION INCOME TAX. THOSE 2 CORPORATIONS PRESUMABLY PAY MONTANA CORPORATE INCOME TAXES ON THEIR SHARES OF DECKER PROFITS. BUT PACIFIC POWER AND LIGHT WOULD MINGLE ITS DECKER INCOME WITH THE INCOME IT GETS FROM SELLING ME ELECTRICITY, AND PETER KIEWIT'S SONS, THE OTHER PARTNER, ALSO HAS INCOME FROM OTHER ACTIVITIES IN MONTANA. SO THE COMPARISONS WE MADE WITH OTHER STATES ARE NOT THE TOTAL PICTURE ON TAX BURDENS.

2. DO NOT ASSUME THAT THE OTHER STATES' LEGISLATURES ARE SITTING STILL ON COAL TAXES THIS YEAR. NORTH DAKOTA IS LOOKING AT A BILL BACKED BY THEIR GOVERNOR WHICH WILL PUT IN A 10% TAX WHICH WILL RISE TO A 30% TAX IN TWO OR THREE YEARS. THE WYOMING LEGISLATURE IS EXPECTED TO INCREASE ITS COAL TAX TO SOMETHING AROUND 9% TO 12%. IF WE SIT STILL AT 12.6% AS THE INDUSTRY URGES, WE MAY FIND

THAT MORE OF OUR NEIGHBORS BESIDE ALBERTA HAVE LEARNED HOW TO PROFIT FROM SITTING ON VALUABLE ENERGY RESOURCES WHILE WE TIMIDLY IGNORE THOSE OPPORTUNITIES.

ANOTHER POINT I EXPECT THE INDUSTRY TO MAKE IS A PITCH FOR EXCLUDING ROYALTIES FROM VALUE TAXED. THIS WAS THOROUGHLY ARGUED IN SEVERAL MEETINGS OF THE INTERIM STUDY COMMITTEE AND REJECTED. THE REASON IS THAT IF YOU SEPARATE ROYALTIES AND TRY TO TAX THEM SEPARATELY, MANY OF THOSE ROYALTIES ARE TAX-EXEMPT, GOING TO THE FEDERALGOVERNMENT OR INDIAN TRIBES. THIS WOULD BE JUST ONE MORE DEDUCTION, CHIPPING AWAY AT THE SIMPLICITY OF A GROSS VALUE TAX. THE INTERIM COMMITTEE CONCLUDED THAT THE WAY ROYALTY INTERESTS ARE TREATED UNDER THE OIL PRODUCER'S TAX IS FAIR --- A PRO RATA SPLITTING OF THE SEVERANCE TAX WITH THE PERSON HE PAYS ROYALTIES TO.

FOR ALL WE KNOW, SUCH AGREEMENTS MAY HAVE BEEN WRITTEN INTO THE ROYALTY AGREEMENTS THE COAL PRODUCERS HAVE ALREADY SIGNED. THE INDUSTRY NEVER OFFERED TO SHOW US ANY OF THEIR ROYALTY AGREEMENTS DURING THE INTERIM STUDY. WE MAY HEAR IN A FEW MINUTES HOW THE WESTMORELAND COAL COMPANY HAD TO AGREE TO PAY THE CROW INDIANS A ROYALTY OF 8% OF VALUE. WELL, HOW DID THEY DEFINE VALUE IN THAT CONTRACT? IT COULD WELL BE VALUE BEFORE TAXES, JUST AS WE HAVE DEFINED VALUE IN THIS BILL. IF NOT, WHAT DOES THAT PROVE? IT PROVES THAT THE COAL COMPANIES COULD NOT PERSUADE THE CROW TRIBE TO DO WHAT THEY WANT TO PERSUADE THE MONTANA LEGISLATURE TO DO --- THAT IS, ELIMINATE ANY SO-CALLED PYRAMIDING BETWEEN ROYALTIES AND TAXES. IF THE COMPANIES CONTINUE TO TAKE THIS LINE BEFORE THE

AUTHORITY TO SUBPEONA THESE ROYALTY AGREEMENTS.

I WOULD SAY ANOTHER WORD ABOUT "PYRAMIDING". I HAVE CALLED IT A SO-CALLED PROBLEM BECAUSE WE NEVER HEARD ANY HARD EVIDENCE ON HOW IT WAS A BOOKKEEPING PROBLEM. AS A MATTER OF FACT, ANOTHER BILL WAS INTRODUCED OUT OF OUR INTERIM STUDY TO PUT A SEVERANCE TAX ON NATURAL GAS, WITHOUT PYRAMIDING, AND THE GAS INDUSTRY CAME INTO THE SENATE COMMITTEE HEARING AND SAID "PLEASE PUT PYRAMIDING BACK IN, IT MAKES OUR BOOKKEEPING EASIER." FOR THOSE REASONS, I VOTED IN THE INTERIM COMMITTEE WITH THOSE WHO THOUGHT PYRAMIDING WAS A NON-PROBLEM. SENATOR MATHERS FILED A MINORITY REPORT ON THIS ISSUE IN WHICH HE ARGUED THAT TAX PYRAMIDING WAS INEQUITABLE RATHER THAN THAT IT WAS BURDENSOME. IN TALKING TO MEMBERS OF THE HOUSE, I HAVE HEARD OTHERS EXPRESS THIS VIEW. THEREFORE, I EXERCISED MY PREROGATIVE TO CHANGE MY MIND AND INTRODUCED THIS BILL WITHOUT TAX PYRAMIDING. I FEEL IT IS A REASONABLE COMPROMISE IN THE INTERESTS OF GETTING OUT A BILL WHICH CAN PASS THE HOUSE BY A GOOD MAJORITY. BUT TO GO FURTHER AND EXCLUDE ROYALTIES WOULD GUT THIS BILL. Vigorously oppose any such move.

PROCEEDING NOW quickly THROUGH THE BILL, SECTION 1 IS A LENGTHY STATEMENT OF PURPOSE DRAFTED ON ADVICE OF COUNSEL TO DISPEL ANY DOUBTS ABOUT THE CONSTITUTIONAL SOUNDNESS OF THE BILL UNDER THE EQUAL PROTECTION CLAUSE. SECTION 2 CONTAINS THE DEFINITIONS INCLUDING THE PHRASING WHICH AVOIDS TAX PYRAMIDING. SECTION 3 SETS UP THE RATE OF THE TAX AND PROVIDES THAT A SMALL MINE PRODUCING UNDER 50,000 TONS A YEAR PAYS ONLY 1/8 THE TAX. SECTIONS 4 AND 5 ARE BASICALLY PROVISIONS OF THE EXISTING LAW REENACTED. SECTION 6 COVERS THE SITUATION WHEN A COAL MINE DOES NOT SELL THE COAL BUT USES IT IN SOME PROCESS LIKE

A GASIFICATION PLANT. SECTION 7 PROVIDES FOR DISPOSITION OF THE REVENUE, AND I WILL CALL ON MY FIRST CO-SPONSOR, MR. DASSINGER, TO EXPLAIN THIS SECTION IN DETAIL. later SECTIONS 8, 9, AND 10 PROVIDE FOR A REPLACEMENT TO THE PRESENT PROPERTY TAXATION OF NET PROCEEDS OF COAL MINES. UNDER THE BILL, THE COUNTIES AND SCHOOL DISTRICTS WOULD APPLY THEIR MILL LEVIES TO 45% OF THE GROSS PROCEEDS INSTEAD. A TECHNICAL AMENDMENT HAS BEEN PREPARED TO CLARIFY THE INTENT OF THIS FORMULA. THE FISCAL NOTE INDICATES THAT THIS WILL PRESERVE THE STATUS QUO IN MOST CASES. SECTIONS 13, 14, AND 15 MAKE THE NECESSARY AMENDMENTS TO EXISTING CODE SECTIONS TO CONFORM THEM TO THE GROSS PROCEEDS TAX. THEN THERE IS A SEVERABILITY CLAUSE AND A SECTION REPEALING THE EXISTING LICENSE TAX.

— Mr. Dassinger

I

IV

IN CONCLUSION, MR. CHAIRMAN, HOUSE BILL NO. 115 IS A MEASURE TO RESPOND TO THE VERY REAL PROBLEMS OF COUNTIES AND CITIES IMPACTED BY LOCAL GOVERNMENT, AND BEYOND THIS, TO ADD A MODEST AMOUNT OF REVENUE INCREASE TO THE GENERAL FUND. THERE IS NO QUESTION IN MY MIND THAT THE ~~ELECTRICITY~~ CONSUMERS, MOSTLY IN OTHER STATES, CAN AND SHOULD ABSORB THE VERY MODEST INCREASES ~~IN THEIR UTILITY BILLS WHICH THIS TAX WOULD BRING ABOUT~~. A MINNESOTA UTILITY IS PAYING ABOUT $20 A TON, AFTER FREIGHT FOR MONTANA COAL, AND IF THIS BILL BOOSTS THAT ANOTHER TWENTY CENTS OR SO, I DO NOT THINK ANYONE WILL SUFFER.

III

5% increase

HB 115 by Halvorson 20% SEVERANCE TAX & GROSS PROCEEDS AT 45% FOR COAL

This bill substitutes a percentage of value severance tax (20%) on coal to replace the existing cents-per-ton tax; and substitutes a gross proceeds tax at 45% for the present net proceeds property tax.

SEVERANCE TAX OF 20%

Under present law, Western Energy coal is taxed at $.34 per ton in the 8,000-9,000 BTU class. Under this bill, it would be taxed at $.34 or 20% of the value, whichever is greater. Value is the contract sales price, f.o.b. mine, less the seller's taxes paid on production. The share going to the county is changed from $.03 per ton to 1/10 of the tax paid by each mine in the county. In addition, 1/10 of the tax paid also goes tothe city or town nearest the mine incorporated after 1965. This provision would unfortunately preclude any town near a mine incorporated after 1965 from receiving its rightful share of the tax.

In 1974, if this bill had been in effect, the tax would have been $.54 per ton. It is estimated that by 1977, the tax will be $.62 and $.68 per ton for the masimum and minimum tonnage takes respectively.

NET PROCEEDS REPLACED BY GROSS PROCEEDS TAX IN 45% CLASS

The net proceeds of mines, including coal mines, are assessed at 100% of gross receipts from the sale of the mineral, less deductions for operating costs. This bill would assess gross receipts, without deductions, in the 45% class.

TAXATION COMMITTEE

MARCH 4, 1975

Chairman Dan Yardley called the committee into an executive session at 1:05 p.m., in room #108, Capitol Building, Helena. All members were present except Rep. Bill Thomas who was excused.

HOUSE BILL 115 - Rep. Ora J. Halvorson moved that the following amendment be passed:

1. Amend page 5, section 3, lines 1 through 7.
   Following: "price."
   Strike: All remaining material in section 3.
   Insert: "A person is not liable for any severance tax upon the first five thousand (5,000) tons of coal he produces in a quarter-year."

The motion carried unanimously.

Rep. Halvorson made a motion that amendment #2 be passed.

2. Amend page 7, section 7, line 8.
   Following: "(2)"
   Strike: "One-tenth (1/10)"
   Insert: "One-thirtieth (1/30)"

Rep. E. N. Dassinger made a substitute motion that the following amendment be passed:

2. Amend page 7, section 7, line 8.
   Following: "(2)"
   Strike: "One-tenth (1/10)"
   Insert: "One-twentieth (1/20)"

Substitute motion carried with Representatives Halvorson, Yardley, Bengtson, Hager voting against. Original motion failed.

Rep. Dan Yardley moved that amendments 3 and 4 as follows do pass:

3. Amend page 17, section 14, line 1.
   Following: "Class 9."
   Strike: "Forty per cent (40%)"
   Insert: "Forty-five percent (45%)"
4. Amend page 17, section 14, line 3.
   Following: "Class 10."
   Strike: "Forty-five percent (45%)"
   Insert: "Forty percent (40%)"

Motion carried unanimously. Rep. Halvorson moved that HB DO PASS AS AMENDED.

Rep. Dassinger moved that following amendments do pass:

1. Amend the title, page 1, line 6
   Strike: "TWENTY PERCENT (20%)"
   Insert: "FIFTEEN PERCENT (15%) TO TWENTY-FIVE PERCENT (25%)"

2. Amend page 4, section 3, line 17
   Strike: "20%"
   Insert: "15%"
3. Amend page 4, section 3, line 23
   Strike: "20%"
   Insert: "25%"

There was a great deal of discussion on the amendments to this bill, and this last proposed substitute motion on above amendments was not voted on at this time.

Meeting adjourned at 2:55 p.m.

REP. DAN YARDLEY, Chairman

jl

TAXATION COMMITTEE

March 5, 1975

Executive session of the Taxation Committee followed hearing in room #108, at 8:30 a.m., in the Capitol Building, Helena. Rep. Bengtson was absent.

Discussion was continued on House Bill 115. Rep. E. N. Dassinger made a motion that the amendments he proposed in the executive meeting on March 4 DO PASS. The motion failed with a 4 to 10 vote for the amendments. Representatives Anderson, Dassinger, Fabrega, and Fagg voted for the amendment and the other ten present members voted against the amendment.

Rep. Kemmis had made a substitute amendment that page 4, lines 17, 19, 21 and 23, and in the title, page 1, line 6, "20%" would be changed to "25%". Motion failed with Reps. Kemmis and Johnson voting for this amendment.

Rep. Edward Lien moved that HOUSE BILL 115 DO PASS AS AMENDED. Motion carried unanimously.

Meeting adjourned at 8:55 a.m. Another executive session would be held in room #108 upon adjournment of the House of Representatives this afternoon.

REP. DAN YARDLEY, Chairman

jl